In the High Court for the States of Punjab and Haryana, at Chandigarh.

FAO .No. 4 of 2007 (O&M)
Decided on February 15,2007

M/S Shyama Sham Filling Station --- Petitioner

vs.

Employees State Insurance Corporation & Others --- Respondents.

Present: Mr. Raman Sharma, Advocate,for the appellant

Pritam Pal,J:(Oral)

C.M.No.70-CII of 2007

Heard on application for condonation of delay of 205 days in filing the present appeal, which is supported by an affidavit. Delay is condoned for the reasons mentioned in the application.

C.M.is disposed of.

FAO No.4 of 2007

This appeal filed under Section 82 of the Employees State Insurance Act, (hereinafter referred to as 'the Act'), 1948, is directed against order dated March 31,2006, whereby a petition under Section 75 of the Act, filed by the appellant challenging order dated March 22,2004,

passed by respondent No.1, was dismissed by the learned Civil Judge (Senior Division), Chandigarh, exercising the powers of the "Employees Insurance Court".

Suffice it to say that a survey, on the business premises of the appellant, was conducted on April 15,2003, and it was found that there, 11 persons were working for wages. In that behalf, a list of such employees was prepared at the instance of Labh Singh, Manager/Supervisor in the concern of the appellant. After receipt of the report in the office of respondent No.1-Assistant Director, Employees State Insurance Corporation, Regional Office, Sector 19-A, Madhya Marg, Chandigarh, a notice dated February 24,2003, was issued and a demand of Rs. 8947/- for the period from April 15,2003 to September, 2003, was made. The notice was duly served upon the appellant and ultimately, it was ordered that the amount be recovered under Sections 45-C to 45-I of the Act. Against the said order passed by respondent No.1, a petition under Section 75 of the Act, was filed before the Court below, and ultimately, the said petition was also dismissed.

Now the only contention of learned counsel for the appellant is that in fact, there were only 7 employees on the petrol pump/business place of the appellant and as such, the provisions of the Act, are not attracted, but this contention fails to carry any conviction with this Court inasmuch , it is well established in the statement of Sh. Hisham Singh, Insurance Inspector , who appeared as RW-2 and filed his affidavit Ex. RW2-A ,wherein he deposed that survey was conducted by him on April 15,2003. At that time, 11 persons were found working with the appellant for wages. Out of these, 7 employees were regular while 4

were stated to be daily wage employees. It is further apparent that records were not produced by the appellant before the Court below. It is also observed by the Courts below that a list Ex. P-1 containing the names of the employees shows that 11 persons were working on the petrol pump of the appellant. It is also to add here that admittedly, Labh Singh,who was working as a Manager at the petrol pump of the appellant had furnished list Ex.P-1. In this view of the matter, the place of business/ petrol pump, is covered under the provisions of the Act. Under this Act, an appeal is maintainable only when some substantial question of law is shown to have arisen. Learned counsel for the appellant also could not make out any such law point in this appeal. Hence, this appeal is hereby dismissed in *limine*.

February 15,2007 (Pritam Pal)
RR Judge